IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 199 OF 2006
IN
CRIMINAL APPEAL NO. 192 OF 2006

Ramesh Govind Thakur ..Applicant/ Accused

versus

The State of Maharashtra ..Respondents

Mr. R. C. Makhija for the Applicant / Accused.
Mr. I. S. Thakur, APP for the Respondents - State.

CORAM : D. G. DESHPANDE, &
V. K. TAHILRAMANI,JJ.

DATE : 8TH MARCH, 2006

P.C. :

1. Heard Counsel for the Applicant - accused and learned APP for the State.

2. This is an application for bail by the accused who has been convicted for life for offence under Section 302 of the I.P.C. for the murder of Hirabai. Counsel for the applicant contended that the evidence against the accused is only circumstantial evidence and none of the circumstances are sufficient to come to the conclusion that it was the accused and accused alone

who committed the crime. According to him the so-called extra judicial confessions should not have been relied upon by the accused, one of them is allegedly made by the accused while he was in police station and the other is tried to be proved by a person, who has not actually heard the confession.

3. There may be some force in this contention but that will have to be decided at the time of final hearing. So far as blood stained sickle on the instance of the accused under Section 27 of the Evidence Act is concerned, counsel for the accused contended that in the Chemical Analysis the group of the blood could not be determined and only human blood was detected. He also contended that the so-called eye witness Naresh was not examined by the prosecution and according to him there was no motive for the accused to kill Hirabai. Therefore, according to him the acucsed is entitled for bail.

4. On the other hand, the learned APP pointed out that face of Hirabai was smashed by the accused to create difficulties in identifying her body. There is an evidence of Bhagirathi who had seen the deceased going to the house of the accused. Recovery of blood stained sickle, and most importantly the saree and blouse of the deceased at

the instance of the accused, are clinching pieces of evidence against the accused. He contended that the witnesses have identified the clothes of the deceased, which were recovered at the instance of the accused. Most important circumstance that was pointed out by the learned APP was that the accused had scratches all over his body, which gives credibility to the prosecution case that while resisting the attempt of rape upon her and while protecting herself, the deceased in all probabilities caused those scratches to the accused all over the body. Explanation of the accused in this regard is that he had a quarrel or fight with his wife and in that quarrel he received injuries or abrasions from his wife.

5. We do not find, at least for the purpose of bail, that this explanation is acceptable. It may be that extra judicial confessions tried to be relied upon by the prosecution are of any help to the prosecution, but the circumstances mentioned above are sufficient to reject his application for bail. Application is rejected. The aforesaid observations are only of prima facie nature.

(D.G. DESHPANDE, J.)

(V.K. TAHILRAMANI, J.)